

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

JOHN MASTOR
Individually and as Trustee of the
Mastor Family Trust dated 2/7/89,

Plaintiff,

v.

ORDER
08-CV-802

REXFORD L. NEWMAN, JR., et al.

Defendants.

This case was referred to Magistrate Judge H. Kenneth Schroeder, Jr., pursuant to 28 U.S.C. § 636(b)(1), on November 25, 2008. On November 20, 2008, defendants filed a motion to dismiss. On January 28, 2009, Magistrate Judge Schroeder filed a Report and Recommendation, recommending that defendants' motion to dismiss be granted.

Plaintiff filed objections to the Report and Recommendation on February 6, 2009, and defendants filed a reply thereto. Oral argument on the objections was held on May 20, 2009. Following oral argument, the Court recommended that the parties meet with Magistrate Judge Schroeder to discuss settlement. Magistrate Judge Schroeder conducted a telephone settlement conference with the parties on June 4, 2009. The Court is advised that the parties were not able to settle the case at the June 4, 2009 conference.

Pursuant to 28 U.S.C. § 636(b)(1), this Court must make a de novo determination of those portions of the Report and Recommendation to which objections have been made. Upon a de novo review of the Report and Recommendation, and after reviewing the submissions and hearing argument from the parties, the Court adopts the proposed findings of the Report and Recommendation.

Accordingly, for the reasons set forth in Magistrate Judge Schroeder's Report and Recommendation, the defendants' motion to dismiss is granted. The Clerk of Court is directed to take all steps necessary to close this case.

SO ORDERED.

s/ Richard J. Arcara

HONORABLE RICHARD J. ARCARA
CHIEF JUDGE
UNITED STATES DISTRICT COURT

DATED: June 17, 2009